

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on January 7, 1999 at 8:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)

**Members Excused:** Sen. Barry "Spook" Stang (D)

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Services Division

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 52, 1/7/1999; SB 53,  
1/7/1999  
Executive Action: SB 52, SB 53

**HEARING ON SB 52**

**Sponsor:** SENATOR BOB DEPRATU, SD 40, WHITEFISH

**Proponents:** Mary Bryson, Department of Revenue

**Opponents:** None

**Opening Statement by Sponsor:**

**SENATOR BOB DEPRATU, SD 40, Whitefish**, summarized SB 52 as an act making the individual income tax threshold filing requirement for nonresident taxpayers the same as the threshold filing requirement for resident taxpayers. Current statutes present a conflict of intent with respect to taxation of nonresident individual income tax filers. The advantage of this legislation is that it will eliminate confusion for taxpayers and tax practitioners that arises in the tax treatment of certain nonresident filers by treating all taxpayers the same, regardless of whether they are resident or not and simplifying the reporting requirements for nonresidents.

**Proponents' Testimony:**

**MARY BRYSON, Director, Department of Revenue**, testified that this bill simply clarifies the nonresident and resident filing status and makes them the same.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**CHAIRMAN DEVLIN** asked whether this issue had been presented before previous legislatures, and if not, how they could go so many years without this clarification. **Ms. Bryson** said it had not been presented previously because it had only been brought to the attention of the Department in the interim that it was becoming more and more apparent that this was a conflict.

**SEN. ECK** questioned whether there was a way of determining how much income is earned in Montana for people who live here and do their business on the Internet. **Ms. Bryson** replied that the Department of Revenue works very closely with the Internal Revenue Service and federal reporting, and when those individuals report their federal income, they do have to report their resident status and what states they've earned that income in, and that information is reported back to the Department. In addition, the Department also has information on partnerships and Subchapter S corporations where those returns are filed separate from an individual's income tax returns.

**Closing by Sponsor:**

**SEN. DEPRATU** had no closing statement.

HEARING ON SB 53

Sponsor: SENATOR BOB DEPRATU, SD 40, WHITEFISH

Proponents: Don Hoffman, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

SEN. BOB DEPRATU, SD 40, Whitefish, advised that SB 53 requires taxpayers to file an amended Montana return when their federal taxes are adjusted or when they file an amended federal return. The purpose of this minor change to the law is to protect Montana from a recent ruling of the 9th Circuit Court of Appeals. The Court ruled that requiring taxpayers to report their change to the federal return was not the same as requiring an amended state return to be filed. This bill will amend the statute to require a corporate or individual taxpayer to file an amended state tax return if there are changes to the taxpayer's taxable income. Current taxpayers are required to report these changes to the State but are not required to file an amended return.

Proponents' Testimony:

Don Hoffman, Department of Revenue, stated that currently when the IRS makes changes to an individual or corporate taxpayer, all the law says is that they need to give notice. Under the 9th Circuit Court of Appeals ruling, that was deemed insufficient and that an amended return must be filed. This bill is simply requiring that the notice is an amended return.

Questions from Committee Members and Responses:

SEN. ELLINGSON wanted to know what steps the Department of Revenue takes to make certain that a taxpayer pays taxes due when they receive such notification. Mr. Hoffman said that the Department receives a Revenue Agency Report which is used to redetermine the amount of tax. If there is tax owed, the taxpayer is billed for that amount. If there is a refund due, that is processed.

CHAIRMAN DEVLIN asked if this has been brought before other sessions, and Mr. Hoffman said that it had not because this issue only came up as a result of the 9th Circuit Court of Appeals ruling.

SEN. GLASER had a question about whether making these type of changes in the law effective on passage and approval rather than

at the fiscal year would cause problems or confusion both for the public and the Department. **Mr. Hoffman** replied that it had been considered and the Department believes that there will not be a problem with implementation.

**NOTE:** **SEN. STANG** joined the meeting at this point.

**Closing by Sponsor:**

**SEN. DEPRATU** had no closing statement.

**EXECUTIVE ACTION ON SB 52**

**Motion/Vote:** **SEN. BOHLINGER** moved SB 52 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 53**

**Motion/Vote:** **SEN. BOHLINGER** moved SB 53 DO PASS. Motion carried unanimously.

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**ADJOURNMENT**

Adjournment: 8:20 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT** (tas04aad)